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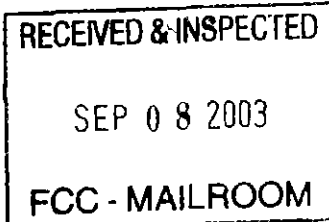


Public Utility Commission of Texas

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PUBLIC UTILITY
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- SIGN

Marlene H. Dortch - Secretary
Federal Communications Commission
445 Twelfth Street, S.W. - TWA 325
Washington, D C. 20554

Irene Flannery - Vice-President of High Cost and Low Income Divisions
Universal Service Administrative Company
2120 L Street, NW - Suite 600
Washington, D C. 20037



RE: Federal-State Joint Board on Universal Service, CC Docket No. 96-45
Grande Communications Network, Inc., TPUC Order on Rehearing

TX PUC Project No 25787 - FCC Letters regarding ETC Designation Pursuant to FTA '96 §214(e)(2)

August 28, 2003

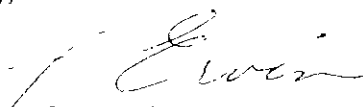
Dear Ms Dortch and Ms. Flannery:

On May 27, 2003, pursuant to Section 214(e)(2) of the Communications Act of 1934, as amended (the "Act") and 47 C.F.R. sections 54.201 - 54.203, the Texas Public Utility Commission (TPUC) provided you with correspondence that Grande Communications Network, Inc (Grande) had been designated as a competitive eligible telecommunications carrier (ETC). Attached to the correspondence was the Order issued by TPUC on May 23, 2003, granting ETC status to Grande.

The TPUC now advises that an Order on Rehearing was issued in Docket No 26404 on July 15, 2003, and attaches this subsequent order for your records. Please note that the only change from the original order is to correct the numbering of certain paragraphs.

If you require any additional information please call Janis Ervin, Senior Policy Specialist, at (512)-936-7372.

Sincerely,


Janis Ervin - Senior Policy Specialist
Telecommunications Division - Texas Public Utility Commission

(1Aug2003 Grande ETC)

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FCC - MAIL ROOM

PUC DOCKET NO. 26404
SOAH DOCKET NO. 473-03-1655

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PUBLIC UTILITY COMMISSION
FILING CLERK

APPLICATION OF GRANDE	§	PUBLIC UTILITY COMMISSION
COMMUNICATIONS NETWORKS,	§	
INC. FOR DESIGNATION AS AN	§	OF TEXAS
ELIGIBLE	§	
TELECOMMUNICATIONS	§	
CARRIER (ETC) PURSUANT TO	§	
P.U.C. SUBST. R. 26.418 AND	§	
ELIGIBLE	§	
TELECOMMUNICATIONS	§	
PROVIDER (ETP) PURSUANT TO	§	
P.U.C. SUBST. R. 26.417	§	

ORDER ON REHEARING

This Order approves the application of Grande Communications Networks, Inc. for designation as an eligible telecommunications provider (ETP) pursuant to P.U.C. Subst. R. 26.417 and as an eligible telecommunications carrier (ETC) pursuant to P.U.C. Subst. R. 26.418 in the service area of CenturyTel of San Marcos, Inc. The Commission adopts the proposal for decision issued by the State Office of Administrative Hearings without modification.

The Commission adopts the following findings of fact and conclusions of law:

I. FINDINGS OF FACT

A. Background, Notice, and Procedural History

1. Grande Communications Networks, Inc. (Grande) is a telecommunications utility that provides bundled telecommunications, cable, and Internet access services to the public in several regions of Texas, including the City of San Marcos.
2. On August 2, 2002, Grande filed an application with the Public Utility Commission of Texas (Commission) for designation as an Eligible

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Telecommunications Carrier (ETC) pursuant to 47 U.S.C. § 214(c) and P.U.C. SUBST. R. 26.418 so as to be eligible to receive support from the Federal Universal Service Fund (FUSF), and as an Eligible Telecommunications Provider (ETP), pursuant to 47 U.S.C. § 214(e) and P.U.C. SUBST. R. 26.417, so as to be eligible to receive support from the Texas Universal Service Fund (TUSF).

3. Grande requested designation as an ETC and ETP in the service area of CenturyTel of San Marcos, Inc. (CenturyTel).
4. Notice of Grande's application was issued by the Commission's Policy Development Division, on behalf of the Commission, and published in the *Texas Register* on August 16, 2002.
5. On September 5, 2002, CenturyTel filed a motion to intervene and comments in opposition to the application. Its motion to intervene was granted.
6. On September 23, 2002, the Commission referred Grande's application to the State Office of Administrative Hearings (SOAH) for a hearing on the merits.
7. On September 26, 2002, Grande appealed the referral to SOAH.
8. On October 23, 2002, the Commission granted Grande's appeal and recalled the case from SOAH.
9. On December 13, 2002, a Commission Administrative Law Judge (ALJ) determined that the application should be docketed and referred the case to SOAH.
10. Grande filed its direct testimony on December 23, 2002, which established an effective date for the application of April 22, 2003, pursuant to P.U.C. SUBST. R. 26.417(f)(2)(D) and 26.418(g)(2)(D). The SOAH ALJ extended the effective date to May 22, 2003.
11. The evidentiary hearing on the merits was held on March 10 and 11, 2003.

B. Designation as an ETC (Uncontested Facts)

12. Grande is a common carrier as required by 47 C.F.R. § 214(e)(1) and P.U.C. SUBST. R. 26.418(c), as that term is defined by 47 U.S.C. § 153(10).
13. Grande currently offers and upon designation as an ETC will offer the following services supported by the FUSF:
 - (a) voice grade access to the public switched network;
 - (b) local usage;
 - (c) dual tone multi-frequency signaling or its functional equivalent;
 - (d) single party service or its functional equivalent;
 - (e) access to emergency services;
 - (f) access to operator services;
 - (g) access to interexchange service;
 - (h) access to directory assistance; and
 - (l) toll limitation for qualifying low-income consumers.
14. Grande currently has the ability to provide the services referred to in Finding of Fact No. 13 through a combination of its own facilities and resale of CenturyTel's services.

C. Designation as an ETC (Contested Facts)

15. The means of advertising currently used by Grande constitute media of general distribution. Grande commits to using those means to advertise the availability of and charges for the services referred to in Finding of Fact No. 13.
16. Grande commits to making the services referred to in Finding of Fact No. 13 available throughout the requested designated service area.
17. Grande's requested designated service area as an ETC includes the entirety of CenturyTel's service area, which is a rural high-cost area.

D. Designation as an ETP (Uncontested Facts)

18. Grande is a telecommunications provider as that term is used in P.U.C. SUBST. R. 26.417 because it holds a Service Provider Certificate of Operating Authority.
19. Grande currently provides and will provide the required basic service throughout the CenturyTel service area through a combination of its own facilities and resale of CenturyTel's service.
20. Grande currently provides and will provide the following requirements of basic telephone service:
 - (a) Flat rate, single party residential and business local exchange telephone service, including primary directory listings;
 - (b) Tone dialing service;
 - (c) Access to operator service;
 - (d) Access to directory assistance services;
 - (e) Access to 911 service where provided by a local authority;
 - (f) Dual party relay service;
 - (g) The availability to report service problems seven days a week;
 - (h) Availability of an annual local directory;
 - (i) Access to toll services; and
 - (j) Lifeline and tel-assistance services.
21. Grande demonstrated that it will offer Lifeline service and Link Up service upon designation as an ETP.
22. Grande demonstrated that it does provide and commits to providing continuous and adequate service in compliance with the quality of service standards defined and codified in P.U.C. SUBST. R. 26.52-26.53, as required by P.U.C. SUBST. R. 26.417(c)(1)(D).

23. Grande complies with the requirements of P.U.C. SUBST. R. 26.52 by having both permanently installed standby generators and a battery reserve of 12 hours.
24. Grande complies with the requirements of P.U.C. SUBST. R. 26.53(a) by having a program of periodic tests, inspections, and preventive maintenance aimed at achieving efficient operation of its system and rendition of safe, adequate and continuous service.
25. Grande complies with the requirements of P.U.C. SUBST. R. 26.53(b) by having a full-feature network control center in San Marcos that provides constant monitoring of its switching and transmission components, and the performance of all equipment and facilities.
26. Grande complies with the requirements of P.U.C. SUBST. R. 26.53(c) by having a permanent office that is equipped with a 1,000 +/- Hz milliwatt test signal generator, a 900 ohm balanced termination test set (quiet term set), and a 108 (loop-back) test line.
27. Grande has the technical capability of measuring the performance standards required by the Commission's rules and can meet any reporting requirements for telephone service in the CenturyTel service area required by the Commission's rules.
28. Grande demonstrated that it does provide and commits to providing continuous and adequate service in compliance with the quality of service standards defined and codified in P.U.C. SUBST. R. 26.54(b) and (c)(1)(I) and (J) and (3)-(7), as required by P.U.C. SUBST. R. 26.417(c)(1)(D).
29. Grande complies with the requirements of P.U.C. SUBST. R. 26.54(b)(1) by providing one-party line service to all subscribers.
30. Grande complies with the requirements of P.U.C. SUBST. R. 26.54(b)(2) since it uses no open wire in its loop or trunk network.
31. Grande complies with the requirements of P.U.C. SUBST. R. 26.54(b)(3) since it uses a combination of fiber-to-the-curb and copper drop-wire in its loop

transmission plant. This supports data transmission in excess of 45,000 bits per second, as compared to the Commission's requirement of 14,400 bits per second.

32. Grande complies with the requirements of P.U.C. SUBST. R. 26.54(b)(4) since it has no need for an exemption to P.U.C. SUBST. R. 26.54(b)(3).
33. Grande demonstrated that it will comply with P.U.C. SUBST. R. 26.54(c)(1)(I) by not including service orders either to disconnect service or to make any record changes on a customer's account in the interval and equipment requirements of this rule.
34. P.U.C. SUBST. R. 26.54(c)(1)(J) does not apply to Grande since it provides only one-party service.
35. Grande complies with the requirements of P.U.C. SUBST. R. 26.54(c)(3)(A) by providing dial tone within three seconds on 99.9% of all calls.
36. Grande complies with the requirements of P.U.C. SUBST. R. 26.54(c)(3)(B) by having switching resources which complete more than 98 of intra-office calls without encountering an equipment busy condition or equipment failure.
37. Grande complies with the requirements of P.U.C. SUBST. R. 26.54(c)(3)(C) since its switch in San Marcos has been available for 100% of its four-year history.
38. Grande commits to complying with the requirements of P.U.C. SUBST. R. 26.54(c)(3)(D) that it provide a report detailing the cause and proposed correction action for failure to meet any of the above local dial service measurements.
39. Grande complies with the requirements of P.U.C. SUBST. R. 26.54(c)(4) since its trunking network is designed and sized for a minimum P.01 grade of service for the peak traffic period of each week, which means that less than one call per hundred in the busy hour is denied service due to a lack of interoffice trunking capacity. In addition, Grande's availability factor for stored program controlled digital and analog switching and inter-office transmission facilities is 99.99%, which exceeds the Commission requirement of 99.93%.

40. Grande complies with the requirements of P.U.C. SUBST. R. 26.54(c)(5) since it has a 99% completion rate on properly dialed toll calls, without encountering failure because of blockages or equipment irregularities.
41. Grande complies with the requirements of P.U.C. SUBST. R. 26.54(c)(6), since its trouble reports currently average less than one report per 100 customer access lines per month, its procedures for dealing with customer trouble reports are consistent with the requirements of this rule, and above 90% of out-of-service trouble reports are cleared within eight working hours and repeat trouble reports on residence and single line business lines are below 10%.
42. Grande complies with the requirements of P.U.C. SUBST. R. 26.54(c)(7) since it meets or exceeds each of the requirements in this rule. Grande's network utilizes digital transmission facilities on both loop and trunk plant. Trunks are operated with 0 decibel loss, while customer loops operate with 0 decibel transmit, -6 decibel receive. Because Grande's facilities are all digital, metallic noise levels are below those specified in the rule. Since Grande's loop and trunk transmission facilities are digital, noise and impulse noise limits are below those specified in the rule.

E. Designation as an ETP (Contested Facts)

43. Grande commits to meeting the requirement that it offer to provide basic local telecommunications service at a rate not to exceed 150% of CenturyTel's tariffed rate. Grande's current rate for basic local telecommunications service is \$5.25 per month, which is below the existing rate for that service provided by CenturyTel of \$5.70 per month.
44. Grande demonstrated that it can and will provide basic local telecommunications service to any requesting customer in the CenturyTel area.
45. Grande demonstrated that it does and commits to providing continuous and adequate service in compliance with the quality of service standards defined and

codified in P.U.C. SUBST. R. 26.549(c)(1)(A)-(H) and (2), as required by P.U.C. SUBST. R. 26.417(c)(1)(D).

46. Grande complies with the requirements of P.U.C. SUBST. R. 26.54(c)(1)(A) since it meets or exceeds the requirement that 95% of service installation orders for primary service be completed within five working days.
47. Grande complies with the requirements of P.U.C. SUBST. R. 26.54(c)(1)(B) since Grande consistently meets or exceeds the requirement that 90% of service orders for regular service installations be completed within five working days.
48. Grande complies with the requirements of P.U.C. SUBST. R. 26.54(c)(1)(C) since Grande consistently meets or exceeds the requirement that 90% of service orders for service installations be completed within 30 days.
49. Grande complies with the requirements of P.U.C. SUBST. R. 26.54(c)(1)(D) since Grande consistently meets or exceeds the requirement that 100% of service orders for service installations be completed within 90 days.
50. Grande demonstrated that it will comply with P.U.C. SUBST. R. 26.54(c)(1)(E) by establishing and maintaining installation time commitment guidelines for various complex services contained in its tariff, which will be available for public review and applied in a non-discriminatory manner.
51. Grande complies with the requirements of P.U.C. SUBST. R. 26.54(c)(1)(F) by using interval measurements that commence from the date the customer qualifies for service.
52. Grande complies with the requirements of P.U.C. SUBST. R. 26.54(c)(1)(G) by providing to the customer a due date on which the requested installation or change shall be made and that any appointment period for a premises visit shall not exceed a four-hour time period on the due date. In addition, Grande meets the requirements of the rule if an appointment cannot be met.

53. Grande complies with the requirements of P.U.C. SUBST. R. 26.54(c)(1)(H) by substantially exceeding the requirement that 90% of the company's commitments to customers for the date of installation of service orders shall be met.
54. Grande complies with the requirements of P.U.C. SUBST. R. 26.54(c)(2)(A), (C), (D), and (E) by establishing third-party contracts that contain requirements which meet or exceed each standard contained in this rule for directory assistance services and for operator services. In addition, Grande complies with P.U.C. SUBST. R. 26.54(c)(2)(B) by meeting the requirement that 90% of repair service calls and business office calls be answered within 20 seconds or that the average answer time shall not exceed 5.9 seconds.
55. Grande commits to advertising the availability of supported services in a manner that fully informs the general public within the designated service areas. Grande currently advertises through newspaper, television, radio, and billboard advertising and commits to using at least some of these same media of general distribution to advertise its universal service offering to business and residential consumers in the designated service area.

F. Grande's Application is in the Public Interest

56. As a new entrant into the CenturyTel service area, Grande provides an alternative choice of quality telecommunications service at just, reasonable, and affordable rates and promotes the deployment of advanced telecommunications and information services to the customers in the San Marcos area.
57. Grande began providing telecommunications service in San Marcos in February 2001. Grande is currently deploying in the San Marcos area a new fiber-to-the-curb network which allows Grande to deliver bundled telecommunications, cable, and Internet access services.
58. Grande prices its basic local telecommunications service offering at \$5.25 compared to CenturyTel's \$5.70. This rate is less than 150% of CenturyTel's rate for basic local telecommunications service.

59. As part of its facilities-based telecommunications offerings, Grande provides enhanced call features, including Caller ID, Call Waiting, Call Forwarding, Three-Way Calling, Speed Dial, Call Return, Auto Redial, Anonymous Call Rejection, Call Waiting ID, Call Blocker, Selective Call Forwarding, Distinctive Ring, and Voice Mail. In addition, Grande offers to its customers in the San Marcos area several domestic and international long distance calling plans, inbound 800 service, and calling card service.
60. Grande offers a variety of information services and advanced technologies, such as dial-up and broadband Internet access service, including three different levels of high-speed Internet access service. Internet customers may also order related information services such as additional web space, IP addresses, e-mail addresses, and filtered services which block unwanted Internet sites. In addition, Grande offers three levels of cable service to its customers.
61. Grande promotes the deployment of advanced telecommunications and information services in product bundles at discounted rates.
62. In response to Grande's entry into the San Marcos market, CenturyTel introduced its own bundled offerings, introducing additional choice and savings for customers.
63. The Texas Legislature and the United States Congress have articulated a policy in favor of competitive telecommunications choices for citizens in *all* areas of the country, including rural areas.
64. Competition is hoped to bring lower prices, higher quality, and the rapid deployment of new telecommunications technologies. Grande's entry into the CenturyTel service area brings these benefits of competition to the customers in the San Marcos area.
65. Fundamental goals of the Communications Act of 1934, as amended by the Telecommunications Act of 1996 (the Act), and federal and state telecommunications policy, are to preserve and advance universal service.

66. The availability of quality telecommunications services at just, reasonable, and affordable rates, and the deployment of advanced telecommunications and information services to all regions of the United States, including rural and high-cost areas, are implicit goals encompassed by the fundamental purposes of the Act.
67. The availability of Grande as a second provider brings a choice of providers to consumers in the CenturyTel service area of San Marcos who would otherwise be served by a single provider.
68. A choice of providers can reasonably be expected to provide consumers with a greater range of service choices and pricing driven by the marketplace.
69. Subjecting Grande to a public interest test based in part on a requirement that it build facilities throughout the CenturyTel service area would violate P.U.C. SUBST. R. 26.417(e)(1)(C) and 26.418(c)(1), since both rules require only that an applicant serve the designated area through a combination of facilities and resale of another carrier's service.
70. The Commission determined that the entire CenturyTel service area is a rural high-cost area eligible for TUSF support by eligible ETPs.
71. The public interest will be served by granting Grande's applications for designation as an ETC and an ETP.

II. CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this docket pursuant to the Communications Act of 1934, as amended by the Telecommunications Act of 1996 (Act), 47 U.S.C. § 214(e)(6), and the Public Utility Regulatory Act (PURA) §§ 52.001 *et seq.*
2. The notice provided in this docket is sufficient, pursuant to P.U.C. PROC. 22.55 and P.U.C. SUBST. R. 26.417(f)(1) and 26.418(g)(1).

3. SOAH has jurisdiction over all matters relating to the conduct of the hearing in this proceeding, including the preparation of a Proposal for Decision with Findings of Fact and Conclusions of Law in accordance with PURA § 14.053 and TEX. GOV'T CODE ANN. § 2003.049 (Vernon 2000 and Supp. 2003).
4. The designation of a telecommunications provider as an ETC is the responsibility of the Commission. 47 C.F.R. § 54.201(b).
5. Only carriers designated ETCs are eligible for FUSF support. 47 C.F.R. § 54.201(3).
6. The TUSF was established to implement a competitively neutral mechanism to enable all residents to obtain basic telecommunications services. P.U.C. SUBST. R. 26.401(a).
7. Only providers designated ETPs are eligible for TUSF support.
8. Designation as an ETC is contingent upon a finding that the carrier satisfies the requirements of 47 C.F.R. § 54.201(d).
9. The Commission's Substantive Rule 26.418 incorporates the federal requirements for ETC designation.
10. To be designated an ETC, a carrier must reasonably demonstrate its ability and willingness to provide the services required of an ETC.
11. Requiring carriers to provide the supported services prior to designation as an ETC has the effect of prohibiting the ability of prospective market entrants from providing telecommunications services in violation of Section 253(a) of the Act. Even though such a requirement might be said to apply equally to both new entrants and incumbent LECs, the effect of such a requirement is not competitively neutral and is, therefore, preempted by federal law.
12. Based on Conclusions of Law Nos. 10 and 11, a carrier's designation as an ETC is dependent on offering, rather than providing, the supported universal services.
13. A carrier may make the required showing of offering the supported services by a description of the proposed service technology, a demonstration of the extent to

which the carrier provides telecommunications services within the state, a description of the extent to which the carrier has entered into interconnection and resale agreements with others, a sworn affidavit signed by the carrier's representative to ensure compliance, or other means that demonstrate the carrier's ability and willingness to provide service upon designation.

14. Based on Findings of Fact Nos. 12 through 17 and 56 through 71, Grande satisfies the federal and state requirements for designation as an ETC.
15. Although designation as an ETP is contingent on a finding that the telecommunications provider is designated an ETC, the Commission held that the administrative streamlining mandate reflected in the aggressive timetables set forth in SUBST. R. 26.417(f) and 26.418(g) requires that these and future such applications move forward simultaneously.
16. P.U.C. SUBST. R. 26.52 through 26.54 are applicable to all ETPs, regardless of whether the ETP is also a dominant certificated telecommunications utility.
17. Grande's ETP designation is dependent upon its advertising both the availability and the charges for the supported services and that Grande commits to complying with this requirement.
18. Section 214(e)(2) of the Act and P.U.C. SUBST. R. 26.418(e)(2) require the Commission to determine whether the designation of an additional ETC in an area served by a rural telephone company is in the public interest. P.U.C. SUBST. R. 26.417(d)(2) requires a finding that designation of an ETP in an area served by a rural carrier is in the public interest.
19. The Commission's analysis of the public interest is guided by the fundamental goal of preserving and advancing universal service, and the component goals of ensuring the availability of quality telecommunications services at just, reasonable, and affordable rates, and the deployment of advanced telecommunications and information services to all regions of the United States, including rural and high cost areas.

20. Section 253(a) of the Act is violated by any state provision that prohibits or has the effect of prohibiting the ability of any entity to provide interstate or intrastate telecommunications service.
21. Section 253(a) does not affect a state's ability to impose, on a competitively neutral basis and consistent with section 254 of the Act, requirements necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers. 47 U.S.C. § 253(b).
22. Grande's proposed Lifeline and Link Up tariff, filed with its application was reviewed and approved by the Commission Staff and shall become effective upon Commission approval of Grande's joint ETC and ETP application.
23. Based on Findings of Fact Nos. 18-71, Grande satisfies the requirements for designation as an ETP.
24. Upon approval by the Commission of its joint application for ETC and ETP designation, and consistent with Docket No. 18516, Grande shall be eligible to receive FUSF and TUSF support for providing supported services in the CenturyTel service area.

III. ORDERING PARAGRAPHS

In accordance with these findings of fact and conclusions of law, the Commission issues the following Order:

1. Grande's application for ETC and ETP designation is granted.
2. Grande shall file quarterly service quality performance reports with the Commission, as required by P.U.C. SUBST. R. 26.54(c).
3. Grande shall file annual reports with the Commission regarding its Lifeline and Link Up subscriberships, as required by P.U.C. SUBST. R. 26.54(j)(1).
4. Grande shall file an affidavit at the conclusion of its advertisement of its services through media of general distribution.

5. All other motions, requests for entry of specific findings of fact and conclusions of law, and any other requests for general or specific relief, not expressly granted herein, are denied for want of merit.

SIGNED AT AUSTIN, TEXAS the 15th day of July 2003

PUBLIC UTILITY COMMISSION OF TEXAS


REBECCA KLEIN, CHAIRMAN


BRETT A. PERLMAN, COMMISSIONER


JULIE PARSLEY, COMMISSIONER